

**AGREEMENT VARYING CONCESSION**

**BETWEEN**

**THE GOVERNMENT OF THE REPUBLIC OF VANUATU**

**AND**

**THE HONOURABLE MINISTER OF LANDS,  
GEOLOGY, MINES, ENERGY  
AND RURAL WATER SUPPLY**

**AND**

**UNION ELECTRIQUE DU VANUATU LTD**

*— Port Vila —*

THIS AGREEMENT is made the 25<sup>th</sup> day of SEPTEMBER 1997

BETWEEN: THE GOVERNMENT OF THE REPUBLIC OF VANUATU  
(hereinafter called "the Government") of the  
first part

A N D: HONOURABLE SATO KILMAN, Minister of Lands,  
Geology, Mines, Energy and Rural Water Supply  
and also being the Minister responsible for Power  
for the purposes of the Electricity Supply Act  
(Cap 65) (hereinafter called "the Grantor") of  
the second part

A N D: UNION ELECTRIQUE DU VANUATU LIMITED a local  
Vanuatu Company having its registered office  
situate at C/o Second Floor, Law House, Kumul  
Highway, Port Vila, Efate in the Republic of  
Vanuatu (hereinafter called "the Concessionaire")  
of the third part

WHEREAS:

- A. The increased consumption of electricity in Port Vila has resulted in the need to increase the generating capacity by the construction of a new power station to be equipped in the first stage with two generators of 4MW capacity as a matter of urgency.
- B. As to the relocation of the existing power station and the interconnecting transmission line from the new power station to the existing network the Government has requested that it be financed and operated by the Concessionaire pursuant to the Concession.
- C. The Government has also requested the Concessionaire to finance the purchase of the necessary land for the construction and operation by the Concessionaire of the new power station.
- D. In view of the major investments required to be made for the new power station, allocations to the asset transfer Fund and to the renewal Fund cannot be made in accordance with sections 4 and 5 of the said Convention and consequently the price of electricity should be increased as is stipulated in section 5, paragraph 26 of the Specification Relating to the Concession for Port Vila dated the 15th day of August 1986.

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This land which will be financed by the Concessionaire for an amount of 30 Million Vatu in accordance with the offer of sale made by the company BLADINIÈRE ESTATES (URBAN) LIMITED dated the 3rd of June 1997, shall form an integral part of the Concession fixed assets.

The Government hereby agrees to ensure that all consents and authorisations required to be given by it and/or its Minister responsible for Lands and Natural Resources shall be granted forthwith in respect of the Transfer of the said Leases to the Concessionaire.

The 2886 m<sup>2</sup> of land where the existing power station is situated, which is provided by the Government (in accordance with the Concession set out in section 2 of the Convention subsequently modified by a decision of the Council of Ministers of the 30th of January 1992) shall remain at the disposal of the Concessionaire until the end of the Concession provided always that such use by the Concessionaire shall be solely for the purposes of the Concession and provided always further that any part or parts of the land no longer required shall be returned by the Concessionaire to the Government.

The Concessionaire shall at the end of the Concession retransfer the leasehold titles relating to the new power station and the existing power station back to the Government."

SECTION 4 - REVALUATION INDEX (varies Section 4 paragraphs 13 and 14 and Section 8 paragraph 36 of the Convention)

By application of section 8, paragraph 38 of the Convention, the common index to be used for the revaluation of private and concession assets and for the revaluation of allocations shall be replaced by the index "Matériel" (Equipment) published in the "Journal Officiel de Nouvelle-Calédonie" (New Caledonian Gazette) classified under cost of materials for construction reference "28 IM".

The base index shall be that of the 3rd quarter 1997 and for the duration of the Concession, the reference index used for calculating revaluations shall in any case never be inferior to the base value.

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SECTION 5 - REPLACEMENT AND MAJOR MAINTENANCE (replaces Sections 5 and 9 of the Convention)

This section supersedes sections 5 and 9 of the Convention and is as follows:

5.1 The Concessionaire shall make provisions for the replacement and major maintenance of concession assets during the term of the concession, whether or not they are financed by the Concessionaire.

The Concessionaire shall provide an annual report on the status of the replacement and major maintenance fund, in particular:

- \* the amount of the annual allocation;
- \* the amount of expenditure from the fund;
- \* the detail of the expenditure (renewal, major parts, major overhauls and so on);
- \* detail of assets withdrawn from operation during the current year. This applies to assets financed by the Concessionaire, the Grantor and/or third parties;
- \* the balance of the fund at the end of the financial year.

PART B

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5.2 Annual allocations shall be calculated as percentages of the revalued value of assets as tabled in the books of the Concessionaire at the end of each financial year. The percentages shall be as follows:

- Buildings (civil works)	1	%
- distribution and transmission network	1	%
- generating equipment (mechanical and electrical)	1.5	%

If in the future, new works which do not fall in any of the above categories should be constructed, these would be assigned appropriate percentages subject to the prior approval of the Grantor.

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PART B

\* | These allocations shall be credited to the "Replacement and Major Maintenance Fund".

### 5.3 Major Maintenance

Expenses related to major maintenance of an exceptional nature to generating equipment (such as major overhauls, replacement of major parts, repairs, and other necessary maintenance of a similar nature) and expenses related to major maintenance and restoration of an exceptional nature of the electricity transmission and distribution network shall be debited from the "Replacement and Major Maintenance Fund".

### 5.4 Replacement

#### a) Assets financed by the Concessionaire

When a Concession fixed asset which has been financed by the Concessionaire is withdrawn from operation, the conditions of section 4, paragraph 18 of the Convention shall apply and allocations to fixed asset depreciation and replacement funds shall no longer be made for this particular asset which has been withdrawn from service.

The new asset shall be considered as a new investment and be subject to fixed asset depreciation and allocations to the replacement fund.

#### b) Assets financed by third parties

When a Concession fixed asset which has been financed by the Grantor and/or the Government and/or by a third party is withdrawn from operation, the revalued value of the asset for the year when it is withdrawn from operation shall be debited from the account in the books of the Concessionaire entitled "Revalued Concession fixed assets financed by third parties" and allocations to the replacement fund shall no longer be made for this particular asset.

The following procedure shall be followed for the replacement asset:

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- \* If the replacement asset is identical to the asset being replaced, the expense relative to the replacement, less any earnings from the sale of the asset being replaced, shall be debited from the " Replacement and Major Maintenance Fund"
- \* In the case of the capacity of the replaced asset being upgraded, an amount equivalent to the value of the identical item shall be debited from the " Replacement and Major Maintenance Fund " as stipulated above and the difference between this amount and the actual amount of the investment shall be considered as an asset financed by the Concessionaire which shall be subject to asset transfer depreciation and allocations to the "Replacement and Major Maintenance Fund"

c) Conditions common to assets financed by either the Concessionaire or third parties.

It is agreed that the conditions for replacement of assets as described above shall apply only to whole assets being withdrawn from operation which can be individually identified as an integral asset in the books of the Concessionaire.

The replacement of parts only of assets which cannot be individually identifiable shall be carried out in accordance with the procedure described in 5.3.

5.5 At the end of the Concession, the amount of the credit balance standing in the "Replacement and Major Maintenance Fund" shall be paid to the Government.

SECTION 6 - EVENTS OF FORCE MAJEURE (replaces Section 9 of the Convention)

Expenses relating to repairs of damages caused by events of force majeure (as hereinafter defined) which are not covered by insurances (such as damages to the aerial distribution network caused by cyclones) shall be at the expense of the Concessionaire.

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However, if the amount of such expenses for the current financial year should result in operating losses, the parties shall define the necessary remedial action by common accord to balance the books of the Concessionaire.

In the event that the parties could not agree by common accord, the resulting dispute shall be arbitrated by application of section 17 of the Convention.

#### SECTION 7 - SPECIFICATIONS

7.1 The parties hereto mutually agree that:-

On the one hand :

- \* As a result of the construction of a new power station for the generation of electricity in Port Vila, the apportionment of operating costs in the books of the Concessionaire are no longer coherent with the price adjustment formula for the price P.
- \* One of the 2 parameters for the calculation of the index "M" in the price adjustment formula is no longer available and the base index for the calculation of the index "K" is no longer representative of the variations in the price of industrial products.
- \* Over 5 years have elapsed since the last revision of tariffs and the price P has varied by more than 25% since the last revision.
- \* Section 5, paragraph 26 of the Specifications Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila, dated the 15th of August 1986, hereinafter referred to as the "Specifications" stipulates that in such a case, the tariffs and the price adjustment formula may be revised.

on the other hand :

- \* Uniform tariffs must be applied to all users in the Port Vila and Luganville Concessions.

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7.2 REFERENCE PRICE (varies Section 1 of Amendment No. 1 to the Specification of 23 January 1990)

The reference price per kWh, effective from the 1st of October 1997 is fixed at:

$$P_0 = 32,63 \text{ Vatu/kWh}$$

This price  $P_0$  is based on the economic and fiscal conditions in force as at the 15th of August 1997 and in particular on the payment by the Concessionaire of only an annual license fee of 4% (four percent) of turnover from the sales of electricity, the fixed charge not being included, and on the total exemption on any other tax which may be applied either directly or indirectly and on the total exemption of import duty and taxes on all goods, equipment and consumables to be used in the generation and public supply of electricity in Port Vila and Luganville, except for import duty and taxes on diesel oil purchased by the Concessionaire for the Luganville power station.

7.3 QUARTERLY PRICE ADJUSTMENT FORMULA (varies Article 5 paragraph 23 of the Specification of 1986 and Sections 1 and 2 of Amendment No.2 to the Specifications of 1 July 1990)

The base price  $P$  used for billing of electricity and fixed charges, advance on consumption, penalties applicable to the Concessionaire, and the reconnection fee after interruption to supply, shall be calculated each quarter on the 1st of January, the 1st of April, the 1st of July, and the 1st of October each year by application of the following formula:

$$P = P_0 \times [0,10 + 0,51 \times G/G_0 + 0,15 \times M/M_0 + 0,24 \times IM/IM_0 \times C/C_0]$$

Where :

$G$  is the weighted average price of a litre of diesel fuel purchased in Port Vila and in Luganville, expressed in Vatu/litre and calculated as follows :

$$G = (G' \times L' + G'' \times L'') / (L' + L'')$$

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where :

G' is the average price of a litre of diesel fuel delivered to the Port Vila power stations calculated by dividing the total amount of invoices received by UNELCO by the corresponding amount of diesel fuel delivered during the three months period preceding the date of adjustment of tariffs.

L' is the number of litres of diesel fuel consumed by the Port Vila diesel power stations during the three month period preceding the date of adjustment of tariffs

G" is the average price of a litre of diesel fuel delivered to the Luganville diesel power stations calculated by dividing the total amount of invoices received by UNELCO by the corresponding amount of diesel fuel delivered during the three months period preceding the date of adjustment of tariffs.

L" is the number of litres of diesel fuel which would have been consumed by the Luganville diesel power station during the three month period preceding the date of adjustment of tariffs if the power generation had been entirely produced by diesel generators, calculated as follows :

$$L'' = (C_{sg}/M_{vg}) \times (E_h + E_d)$$

where :

$C_{sg}$  and  $M_{vg}$  represent the specific consumption of diesel oil (in grams/kWh) and the density of diesel fuel (in grams/litre) respectively as defined in section 18 of the addendum dated the 03 March 1995 to the Concession Contract of Luganville.

$E_h$  is the energy produced by the hydroelectric power station (in kWh) as defined in the same section 18, during the three month period preceding the date of adjustment of tariffs.

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Ed is the energy produced by the diesel power station in Luganville (in kWh) during the three month period preceding the date of adjustment of tariffs.

M is the average of the daily wage for a single male not receiving board or lodging in Port Vila at IFIRA WHARF and STEVEDORING, classified as an " inexperienced labourer ", and of the classification " PO2 " with the Public Service of the Vanuatu Government.

If a scale of wages or a collective agreement is concluded in VANUATU, or if a cost of living index should be published on a regular basis, the Concessionaire and the Grantor shall confer to modify the definition of M.

The application of the new index shall be such as to cause neither gain nor loss to the Concessionaire.

IM is the average of the indices " Matériel " (equipment) published by the " Journal Officiel " (New Caledonia Gazette) for the three month period preceding the date of adjustment of tariffs.

C is the currency exchange rate for the Pacific Franc (XPF or CFP) to Vatu (expressed in Vatu/XPF) published by the Banque d'Hawai in the column " selling rate " on the last working day before the date of adjustment of tariffs.

The base indices used to determine the reference price  $P_0$  in section 1 are as follows :

Go = 50.43 Vatu/litre  
 Mo = 1118 Vatu  
 IMo = 107.68 Vatu  
 Co = 1.0439 Vatu/XPF

In the event that certain indices should no longer be published or available, or no longer be representative of variations in economic conditions for which they are used, the Concessionaire and the Grantor shall define replacement indices by common accord.

In calculating the base price  $P$ , each variable shall be rounded off to the fourth decimal and the price  $P$  thus calculated shall be rounded off to 2 decimals.

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In all cases, the selling price of electricity based on the price P, shall be rounded off to the nearest one hundredth of a Vatu.

Invoices, shall be rounded off to the Vatu above for all parts of a Vatu equal or above 0.5 and to the Vatu below for all parts of a Vatu less than 0.5.

7.4 TARIFFS (varies Section 5 paragraph 17 of the Specification of 1986)

7.4.1 As from the 1st of October 1997, tariffs applicable to group C (High voltage supply) shall be as follows:

- \* Fixed charge 25 x P per kVA of subscribed power (or peak power reached in the event of subscribed power being exceeded)
- \* Energy 0.7 x P per kWh consumed

7.4.2 As from the 1st of October 1997 the tariffs applicable to group B (public lighting) shall be as follows :

- \* Fixed charge not applicable
- \* Energy 0.50 x P per kWh consumed.

7.4.3 Tariffs applicable to group A (low voltage supply) and domestic agreements remain unchanged.

7.5 REVISION OF THE REFERENCE PRICE AND PRICE ADJUSTMENT FORMULA (varies Section 5 paragraph 26 of the Specification of 1986)

The reference price  $P_0$ , the coefficients, the base indices and the quarterly price adjustment formula may be reviewed at the request of either the Grantor or the Concessionaire :

- \* If more than 5 years have elapsed since the date of effect of this amendment or since the it was last reviewed.

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- \* If the price P has increased or decreased by more than 25% compared to the reference price P<sub>0</sub> defined in section 7.1.
- \* If the fiscal conditions used for the establishment of the reference price in section 7.1 have been modified.
- \* If some new event should cause a major variation in the costs to the Concessionaire such that a review of tariffs appears necessary to pass on the variation in cost due to the new conditions of power generation and distribution in an equitable manner on to the price of electricity.

#### 7.6 TAXATION (New Condition)

Without limiting the generality of the foregoing, the parties hereto mutually agree that a review of tariffs shall be undertaken in the event of any increase or decrease of tax payable by the Concessionaire.

"Tax" means income tax (including capital gains tax), company tax, franking tax of any kind, pay-as-you-earn remittances, prescribed payments, withholding tax (including deductions pursuant to a royalty withholding obligation), fringe benefits tax, customs duty, sales tax, payroll tax, land tax, stamp duty, financial institutions duty, debits tax, municipal rates and all other taxes, charges, imposts, duties and levies.

### SECTION 8 - GENERAL CONDITIONS

#### 8.1 ARBITRATION/JURISDICTION (New Condition)

The Government, the Grantor and the Concessionaire acknowledge and agree that in the event of any dispute hereunder the provisions of Section 17 of the Convention of 1986 shall apply and the parties hereto submit to the jurisdiction of an arbitrator appointed in accordance with the said Section 17.

Notwithstanding anything elsewhere contained in this Agreement or the Concession, this Agreement shall be translated into French, but should a dispute arise only the English text of this Agreement and of the Concession shall apply as evidence.

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The Government confirms, represents and agrees with the Concessionaire that:-

- (a) its obligations hereunder are wholly commercial in nature;
- (b) it waives, and agrees not to assert, by way of motion, as a defense, or otherwise, in any arbitration, action or proceeding, the defense of sovereign immunity, any claim that the Government is not personally subject to the jurisdiction of the arbitration tribunal or any court by reason of sovereign immunity or otherwise or that the Government's property is exempt or immune from execution or attachment by reason of sovereign immunity.

## 8.2 CONSENTS AND AUTHORIZATIONS (New Condition)

The Government shall apply its best endeavours to ensure that all consents and authorizations required to be given by it or any department of the Government, in order for the Concessionaire to carry on its business is granted and remains in full force and effect throughout the period of this Agreement and in particular so that the Concessionaire has the full right and power to effect remittances inside and outside the Republic for any purpose whatsoever including the repayment of loans, the retirement of capital and the payment of dividends, Management fees or distributions and to import or export plant, machinery, apparatus or equipment as the Concessionaire considers necessary.

## 8.3 FORCE MAJEURE (New Condition)

- 8.3.1 When the obligations of any party under this Agreement, other than the payment of any fees or expenses, cannot be performed in full or in part according to the agreed terms as a direct result of an event that is unforeseeable and of which the occurrence and consequences cannot be prevented or avoided, such as earthquake, typhoon, flood, fire and other natural disasters, war, insurrection and similar military actions, civil unrest and strikes, slowdowns and other

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labour actions (an "Event of Force Majeure"), the Party that encounters such Event of Force Majeure (the "Hindered Party") shall not be deemed to be in breach of this Agreement if the following conditions are met:

- (a) the Event of Force Majeure was the direct cause of stoppage, impediment or delay encountered by the Hindered Party in performing its obligations under this Agreement;
- (b) the Hindered Party use its best efforts to perform its obligations under this Agreement and to reduce the losses to the other party arising from the Event of Force Majeure; and
- (c) at the time of the occurrence of the event of Force Majeure, the Hindered Party immediately inform the other party, providing written information on such event within fifteen days of its occurrence, including written statement of the reasons for the delay in implementing or partially implementing this Agreement.

8.3.2 If an Event of Force Majeure shall occur, the parties shall decide whether this Agreement shall be amended in light of the impact of the event upon the implementation hereof, and whether the Hindered Party should be partially or fully freed from its obligations hereunder.

#### 8.4 WAIVER (New Condition)

No waiver or relaxation partly or wholly of any condition of this Concession by the Grantor, the Government or the Concessionaire shall be valid or binding unless in writing and duly executed or signed by or on behalf of both the Grantor and/or the Government and the Concessionaire and any such waiver or relaxation shall apply (unless agreed otherwise and executed or signed as aforesaid) to the particular occasion in question and shall not be continuing and further shall not constitute a waiver or relaxation of any other Condition.

### 8.5 SEVERABILITY (New Condition)

In the event that all or any part of any Condition of this Concession shall be determined invalid, unlawful or unenforceable to any extent such Condition shall be severed from the remaining Conditions which shall continue to be valid and enforceable to the fullest extent permitted by law unless such severance substantially alters the basis and intent of the Concession whether expressed or implied in which case the Grantor, the Government and the Concessionaire shall consult in good faith with a view to defining a replacement condition.

### 8.6 REVOCACTION (New Condition)

Subject to section 8.8 if any of the following events occurs:-

- (a) the Concessionaire contravenes or fails to comply with any of the material terms, provisions or limitations of this Concession and does not take action to remedy such contravention or failure to comply within sixty (60) days following written notice from the Grantor requiring such remedy; or
- (b) if the Concessionaire persistently contravenes or fails to comply with any of the non-material terms, provisions or limitations of this concession and action to remedy such persistent contravention or failure to comply is not taken by the Concessionaire within sixty (60) days following written notice by the Grantor or
- (c) an order is made for the winding up, or dissolution without winding up, or any resolution is passed for the winding up of the Concessionaire (otherwise than for the purposes of a reconstruction or amalgamation to which the Grantor has consented, such consent not to be unreasonably withheld) or a receiver, receiver and manager, official manager or like official is appointed over, or a holder of an encumbrance takes possession of, the whole or any substantial part of the undertaking and property of the Concessionaire or if the Concessionaire makes any arrangement or composition with its creditors generally or any similar event occurs in respect of the Concessionaire.



then the Grantor may in his absolute discretion revoke and determine this Concession and this Concession shall thereupon cease accordingly but without prejudice to any covenant or provision contained in this Concession and on the part of either the Concessionaire or the Government to be observed and performed and any other rights and obligations of the Grantor hereunder PROVIDED ALWAYS HOWEVER THAT where registered security is held by a Vanuatu licensed bank and/or financial institution over the assets and/or undertaking of the Concessionaire then in such case the Grantor shall not be entitled to exercise the said right of revocation unless and until a further period of thirty (30) days notice in writing has expired, such notice to be given by the Grantor to the bank or financial institution concerned prior to the expiry of the above sixty (60) day period.

8.7 COMPENSATION TO THE CONCESSIONAIRE (New Condition)

- (a) In the event this Concession terminates on the Termination Date (which expression shall mean the 31st day of December 2011) or on a date prior to the Termination Date as a result of revocation of this Concession by the Grantor pursuant to Section 8.6, then on the date of such termination, the Government shall purchase the assets and takeover the rights and obligations of the Concessionaire upon the conditions set out in Section 10 of the Convention - TRANSFER OF THE OPERATION UPON EXPIRY OF THE CONCESSION and including subsection 59 of the said Convention.
- (b) In the event that the Government, the Grantor or any agency or department thereof shall, prior to the expiration of the term of the Concession, take steps to terminate this Concession except when permitted to do so under the express terms of this Concession, the Government shall purchase the Concessionaire's Assets (which expression shall include all reasonable outstanding commitments incurred by the Concession in respect of the carrying on of the operation of the Concessionaire under this Concession) at a purchase price equal to the Current Non-Depreciated Value of the Assets at the date of such termination, and in addition, the Government shall pay to the Concessionaire the anticipated profits to the end of

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the Term lost as a result of the premature termination, calculated in the manner set out in Section 11 paragraphs 50 - 53 of the Convention.

- (c) The Government shall at the time of the purchase of the Concessionaire's Assets pursuant to section 8.7(b) hereof take over the national staff of the Concessionaire in order to ensure the continuity of their employment.

#### 8.8 EXCEPTIONS TO CONCESSIONAIRE'S OBLIGATIONS (New Condition)

The Concessionaire's obligations under this Concession shall have effect subject to the following exceptions and limitations:-

- (a) the Concessionaire is not obliged to do anything which is not practicable; and
- (b) the Concessionaire shall not be held to have failed to comply with any obligation if and to the extent that the Concessionaire is prevented from complying with such obligation by any physical, topographical or other natural obstacle, by the malfunction or failure of any electrical or mechanical plant, machinery or equipment, by the act of any nation (including the Government), authority, local authority or international organisation or as a result of fire, flood, cyclone, storm, explosion, accident, emergency, riot or war or other circumstances unforeseeable and beyond its reasonable control.

#### 8.9 NOT TO APPOINT A THIRD PARTY (New Condition)

The Grantor and/or the Government shall not issue to any person other than the Concessionaire any authority or permission to provide, at any time during the term of this Concession, the right to manufacture and supply electric current for lighting and power within the supply areas of Port Vila and Luganville held by the Concessionaire.

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SECTION 9 - SHAREHOLDERS AGREEMENT (New Condition)

The Government and the Concessionaire hereby mutually agree that the Shareholders Agreement made on the 23rd day of January 1990 between the Government of the one part and UNION FINANCIERE POUR L'INDUSTRIE ET L'ENERGIE of the other part shall continue in full force and effect for the term of the Concession hereby granted and the Government hereby agrees with the Concessionaire not to terminate vary or modify the said Shareholders Agreement in any way during the term of the said Concession except with the prior written consent of the Concessionaire.

SECTION 10 - INVESTMENT PLANS (New Condition)

The Concessionaire shall submit to the Grantor their investment plans on the implementation phases of the new power station. These plans should be submitted in good time to allow for mutual consultations.

\* SECTION 11 - TYPE OF FUEL (New Condition)

During the term of the Concession it may be necessary that the Concessionaire may wish to change the type of fuel used. In such event the Concessionaire shall inform the Grantor on the type of fuel they wish to use.

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SECTION 12 - PORT VILA AREA (varies Section 1 paragraph 1 of the Convention)

Notwithstanding anything previously contained in the Concession, the parties hereto hereby mutually agree that the present boundaries of the Port Vila area for the purposes of this Concession henceforth shall be the boundaries of the Port Vila Municipality as declared by Order 19 of 1980 pursuant to the Municipalities Act (Cap 160), being the boundaries delineated on the map annexed to the Declaration set out in the said Order and further this Concession shall extend to any modification or extension of such boundaries in the future.

For the avoidance of doubt the parties hereto hereby acknowledge and agree that the Concessionaire shall have the right to supply electricity within a 15 kilometre radius from the said boundaries to the Port Vila Municipality including any modification or extension of such boundaries.

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SECTION 13 - PURCHASE OF THE CONCESSION (Deletion of Section 11 paragraph 47 of the Convention)

Paragraph 47 of Section 11 of the Convention is hereby cancelled and shall be replaced by the following new paragraph:-

"47. At the end of a twenty five year period commencing from the date of execution of this Agreement, the Government shall have the possibility to purchase the entire operation of the Concession subject to the giving of at least two years prior notice in writing to the Concessionaire".

SECTION 14 - COMMENCEMENT (New Condition)

Save where the context otherwise requires, this Agreement shall take effect at the date of execution hereof.

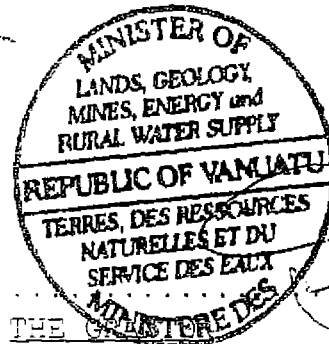
IN WITNESS WHEREOF the parties have hereunto set their hands and affixed their seals at Port Vila this 25<sup>th</sup> day of SEPTEMBER 1997.

SIGNED SEALED AND DELIVERED for )  
and on behalf of THE GOVERNMENT )  
OF THE REPUBLIC OF VANUATU )  
by its PRIME MINISTER THE )  
HONOURABLE SERGE VOHOR acting in )  
accordance with the previous )  
resolution of the Council of )  
Ministers and in the presence of: )



WITNESS: [Signature]

SIGNED SEALED AND DELIVERED by )  
THE HONOURABLE SATO KILMAN )  
Minister of Lands, Geology, Mines )  
Energy and Rural Water Supply )  
and also being the Minister )  
responsible for Power and in the )  
the presence of: )

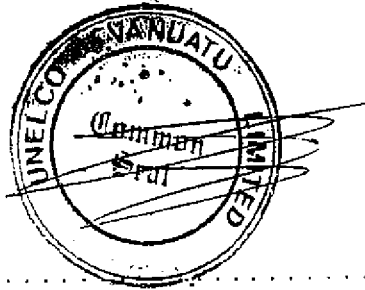


WITNESS: [Signature]

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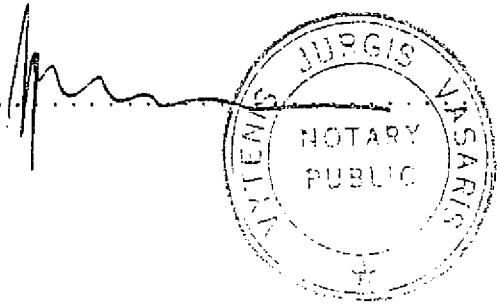
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SIGNED SEALED AND DELIVERED for  
and on behalf of UNION ELECTRIQUE  
DU VANUATU LIMITED by its duly  
authorised Director JEAN  
FRANCOIS BARBEAU and in the  
presence of:



.....  
THE CONCESSIONAIRE

WITNESS: .....



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THE SCHEDULE

In this Agreement, the expression "Concession" refers to and includes the following documents, which documents are varied or modified to the extent set out in this Agreement:-

1. Convention dated 15 August 1986 Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila - specifications and consisting of 20 Sections under the heading SPECIFICATIONS plus Appendix 1 consisting of MODEL OF CONTRACTUAL BALANCE SHEET and made between The Government of Vanuatu represented by its Prime Minister and The Minister of Lands, Natural Resources and Energy "The GRANTOR" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part;
2. AMENDMENT NO 1 dated 23 January 1990 to the Specifications Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila between The Government of Vanuatu, represented by its Prime Minister and The Minister of Energy "the Grantor" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part;
3. AMENDMENT NO 2 dated 1 July 1990 to the Specifications dated 15th August 1986 Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila and made between The Government of Vanuatu, represented by its Prime Minister and The Minister of Energy "the Grantor" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part;
4. CONVENTION dated 15 August 1986 Relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila consisting of 19 sections and made between The Government of Vanuatu represented by its Prime Minister and the Minister of Land, Natural Resources and Energy "the Grantor" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part;
5. AMENDMENT NO 1 dated 23 January 1990 to the Convention dated 15th August 1986 relating to the Concession for the Generation and Public Supply of Electric Power in Port Vila and made between The Government of Vanuatu represented by its Prime Minister and its Minister of Energy "the Grantor" of the one part and UNELCO Vanuatu Limited "the Concessionaire" of the other part

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DATED the 25th day of SEPTEMBER 1997

BETWEEN:            THE GOVERNMENT OF THE  
                          REPUBLIC OF VANUATU

"THE GOVERNMENT"

A N D:                HONOURABLE SATO KILMAN,  
                          Minister of Lands,  
                          Geology, Mines,  
                          Energy and Rural Water  
                          Supply and also being  
                          the Minister responsible  
                          for Power

"THE GRANTOR"

A N D:                UNION ELECTRIQUE DU  
                          VANUATU LIMITED

"THE CONCESSIONAIRE"

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AGREEMENT VARYING CONCESSION

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GEORGE VASARIS & CO  
Barristers & Solicitors  
Second Floor, Law House  
Kumul Highway  
Port Vila, Efate  
Republic of Vanuatu

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Telephone Number: 22457  
Facsimile Number: 22973

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18.9.97

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